

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JONATHAN GLADEM,

Defendant.

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Case No.: SA:20-MJ-00394-RBF

**GOVERNMENT'S MOTION TO
EXTEND TIME IN WHICH TO FILE INFORMATION OR INDICTMENT**

The United States of America, appearing herein through the undersigned Assistant United States Attorney for the Western District of Texas, moves this Court to extend the time in which to file an information or an indictment against the defendant, and represents as follows:

The defendant was arrested on March 7, 2020 in connection with a criminal complaint charging him with 21 U.S.C. § 841(b)(1)(A), Possession with Intent to Distribute 500 grams or more of a Mixture or Substance Containing a Detectable Amount of Methamphetamine; 21 U.S.C. § 841(b)(1)(C), Possession with Intent to Distribute Cocaine and 18 U.S.C. § 924(c), Possession of a Firearm in Furtherance of a Drug Trafficking Crime. 18 U.S.C. § 3161(b) requires that an information or indictment be filed within thirty days from the date on which an individual was arrested. On March 16, 2020, Chief Judge Orlando Garcia issued an order continuing all grand jury proceedings in the district until May 1, 2020. If the time to file an indictment or information were not extended as requested here, an indictment would need to be filed while the grand jury is continued pursuant to the Court's Order. Section 3161(b) provides for an additional thirty days in which to file an information or indictment if an individual has been charged with a felony in a district in which no grand jury has been in session during the original thirty-day period.

Additionally, 18 U.S.C. § 3161(h) includes a detailed list of periods of delay that are excluded in computing the time within which an information or an indictment must be filed.

The government requests that the Court extend the time in which to file an information or indictment in this case for thirty days following the expiration of the suspension of grand juries as stated in Chief Judge Garcia's March 16, 2020, Additional Order Regarding Grand Jury Proceedings Under The Exigent Circumstances Created By The COVID-19 Pandemic, ("Order") any extension of that order, or in any new order. As noted by the Order, which is incorporated by reference, there has been an outbreak of the novel coronavirus in the United States, the State of Texas, the geographical area comprising the Western District of Texas. The World Health Organization has declared that COVID-19 qualifies as a global pandemic. The President of the United States has also declared a national emergency due to COVID-19 and stated additional measures are needed to successfully contain and combat the virus in the United States. The Centers for Disease Control and Prevention and other public health authorities have implemented recommendations and requirements to engage in social distancing and to avoid gatherings of people as a means of limiting further community spread of the disease. Local authorities in Austin, Del Rio, El Paso, San Antonio, and Waco have issued shelter in place orders to address the outbreak and stop spread of the disease.

To combat the spread of the disease, given the severity of risks posed to the public, Court staff, and other Court agencies, Judge Garcia's Order continued all grand jury proceedings in the Western District of Texas until May 1, 2020. The Order provides that "all deadlines are suspended and tolled for all purposes, including the statute of limitations" and that for the reasons set forth in the Order "the time period of the continuances implemented by this Order are excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A)." Further, the Court found that "the ends of justice

served by ordering these continuances outweigh the best interests of the public and each defendant's right to a speedy trial. In fact, the best interests of the public are served by these continuances.”

The government files the instant motion because a global pandemic of this kind is unprecedented in recent history and it is unclear whether 18 U.S.C. § 3161(b)'s extension of thirty days is operative. It is also unclear whether individual findings in each case are needed and if the Order will need to be extended beyond May 1, 2020.

To eliminate the risk of dismissal under the Speedy Trial Act, and to comply with both the statute and Order, the Court should grant this motion and suspend the thirty-day requirement of 18 U.S.C. § 3161(b) in which to file an information or indictment until thirty days following the expiration of the continuation of grand juries as stated in the Order, any extension of that Order, or in any new order.

The government suggests that the extension is necessary in light of the COVID-19 outbreak and the reasons stated by Chief Judge Garcia's Order. Based on these reasons, the government further suggests that, as referenced in the Order, the ends of justice served by extending the time in which an information or indictment must be filed outweigh the best interests of the public and the defendant's right to a speedy trial under 18 U.S.C. § 3161(h)(7)(A).

WHEREFORE, the government requests that the Court extend the time in which to file

an information or indictment until thirty days following the expiration of the suspension of grand juries as stated in the Order, any extension of that Order, or in any new order.

Respectfully submitted,

John F. Bash
United States Attorney

By: /s/
ERIC YUEN
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2020 a true and correct copy of the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, which will cause a copy to be electronically delivered to Defendant's counsel of record.

/s/

ERIC YUEN

Assistant United States Attorney

UNITED STATES DISTRICT COURT
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ORDER

Considering the recent outbreak of the Coronavirus Disease, the proclamations and recommendations of the President of the United States and the Centers for Disease Control and Prevention, and other public health authorities, and Chief Judge Garcia's March 16, 2020, Additional Order Regarding Grand Jury Proceedings Under The Exigent Circumstances Created By The COVID-19 Pandemic, ("Order") which continued all grand jury proceedings until May 1, 2020, the government's motion is **GRANTED**.

IT IS HEREBY ORDERED that the time limit for filing an information or indictment charging the defendant with the commission of an offense in the above-captioned matter, be and hereby is extended until thirty days following the expiration of the continuance of grand juries as stated in the March 16, 2020 Order, any extension of that Order, or in any new order. The Court specifically finds that the ends of justice served by extending the time in which an information or

indictment must be filed in this matter outweigh the best interests of the public and the defendant's right to a speedy trial pursuant to 18 U.S.C. § 3161(h)(7)(A).

Signed this ____ day of _____, 2020.

RICHARD B. FARRER
UNITED STATES MAGISTRATE JUDGE